

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Cory Soderberg, Adam Klym, Joe
Jadoonath, Nathan Ostlund and Ryan Rud,
on behalf of themselves and all other
individuals similarly situated,

Court File No. 10-CV-3429
(PAM/JJG)

Plaintiffs,

**MOTION OF PLAINTIFFS TO
CONDITIONALLY CERTIFY AN
FLSA COLLECTIVE ACTION**

v.

Naturescape, Inc.

Defendant.

In the above-captioned matter, Plaintiffs hereby move this Court, pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), for an Order granting their Motion to Conditionally Certify an FLSA Collective Action. Plaintiffs seek damages arising from Defendant’s failure to pay them “traditional overtime” wages (one and one-half their regular rate of pay per overtime hour). Defendant has admitted that it never paid Plaintiffs traditional overtime. Rather, it paid them only one-half their regular rate of pay per overtime hour, and it offered them a future bonus payment of the same amount. As a consequence of never paying them “time-and-a-half” per overtime hour, Defendant deprived Plaintiffs of wages they were entitled to receive.

By this motion, Plaintiffs seek to represent other “similarly situated” employees—namely, individuals who, during the past three years worked

overtime hours as “Branch Managers” and “Lawn Specialists” for Defendant, yet never received traditional overtime wages. Specifically, Plaintiffs move this Court for an Order providing as follows:

1. This Court finds Plaintiffs are “similarly situated” for notice and discovery purposes to the potential “opt-in” plaintiffs, which group consists of “all persons who Defendant employed as ‘Branch Managers’ or ‘Lawn Specialists’ during the three years preceding the filing of this action.”
2. This Court conditionally certifies this matter to proceed as a collective action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b).
3. This Court will facilitate notice of this collective action to the potential “opt-in” plaintiffs.
4. This Court approves of Plaintiffs’ Proposed Notice to the potential “opt-in” plaintiffs, and it authorizes Plaintiffs’ counsel to disseminate it.
5. This Court orders Defendant to provide Plaintiffs’ counsel contact information—names, dates of employment, last known mailing and e-mail addresses, and social security numbers—for the potential “opt-in” plaintiffs (subject to the Protective Order already in place).

6. This Court orders Defendant to post in a conspicuous location at its various branches notice of this collective action along with “opt-in” forms.

This motion is based on all the files, records and proceedings in this action and the memorandum of law and supporting documents and declarations accompanying this motion.

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Date: 5-4-2011

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